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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/031,023

01/14/2002

Yoichiro Sako

4474

7590

03/16/2006

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EXAMINER

EDUN, MOHAMMAD N

ART UNIT

PAPER NUMBER

2656

DATE MAILED: 03/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/031,023

Applicant(s)

SAKO ET AL.

Examiner

MUHAMMAD N. EDUN

Art Unit

2656

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13, 15-19, 21-83 and 85-96 is/are pending in the application.
- 4a) Of the above claim(s) 27-64 and 71-77 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18, 19, 26 and 65-70 is/are allowed.
- 6) ☒ Claim(s) 1-3, 9, 12, 17, 21-25, 78-83, 85-89 and 94 is/are rejected.
- 7) ☒ Claim(s) 4-8, 10, 11, 13, 15, 16, 90-93, 95 and 96 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Applicant's election of species shown in Fig. 2 (directed to claims 1-26, 65-70, 78-83 and 85-96) in the reply filed on 01/17/06 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 27-64 and 71-77 are, withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 01/17/06, as noted above.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 78-83 and 85-88 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The claims are directed to "content data" which are deemed non-statutory. Content data are taken to be just mere data (or information) to be recorded on a recording medium, and does not meet the requirement of being statutory subject matter (for example does not meet the requirements of being an apparatus or a product, such as a recording medium, a process or method etc.). In order for the claims to be considered statutory, they would have to be amended to be placed in the form of either a recording medium, apparatus, method etc..

It should be noted that the claims will be viewed as if they are statutory in order expedite prosecution, such that they can be considered in view art and consider limitations for allowance, see action below. Note however, the allowable claims need to be placed in statutory form in order to be allowed.

Claim Rejections - 35 USC § 112

Claims 21-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 21-25 are deemed improper dependent claims because they depend on claim 20 that was canceled. Correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 9, 12, 17, 78, 79, 89 and 94 are rejected under 35 U.S.C. 102(e) as being anticipated by Yoshimoto et al. (6,526,019).

Yoshimoto et al. discloses the invention as claimed. Figs. 1-30 show the recording and reproducing apparatus comprising a recording medium having: the plurality of types of management information corresponding to a plurality of type of record media with content data (see column 1, lines 30- 59, that describes the optical disk contains different types of recording media for respective zones, and the optical disk are available either those of R/W type or WO (write once) type, and those of O-ROM (embossed) type in which data is written at the time of fabrication, by embossing,

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and do not permit writing after fabrication), wherein the plurality of type of management information is first management information for reproduction-only record medium (O-ROM type) and second management information for recordable record media (R/W and WO types) (see Figs. 24-26, 28 and 29, that shows the plurality of management information (41) corresponding to the different type of media type, and Fig. 23 that shows an example of the different media type recorded on the medium), as set forth in the claims. The reference further teaches the various location, structure and format of the management information as set forth in claims 2, 3, 9, 12, 17, 79 and 94, (see Figs. 1 and 20, and column 14, line 65-column 16). See also the description of the apparatus and figures for further details relating to the limitations as set forth in the claims.

Allowable Subject Matter

Claims 4-8, 10, 11, 13, 15, 16, 80-83, 85-88, 90-93, 95 and 96 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 18, 19, 26 and 65-70 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record alone or in combination does not teach or suggest the recording medium having the structure and data format as recited in claims 1, 78 and 90 having the further limitations as set forth in claims 4-8, 10, 11, 13, 15, 16, 80-83, 85-88, 90-93, 95 and 96.

Further the prior art does not teach the recording method having the combination of steps with their recited process, along with the specific structure of the recording medium and the: encoding and modulating steps as set forth in claim 18; and the controlling sections as set forth in claim 19, 26 and 65-70.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MUHAMMAD N. EDUN whose telephone number is 571-272-7617. The examiner can normally be reached on FLEXITIME.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa Nguyen can be reached on 571-272-7579. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MUHAMMAD N EDUN
Primary Examiner
Art Unit 2656

